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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,144	06/15/2001	Leroy A. Kuta	56731USA9A (M120.137.101)	8293

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EXAMINER

OSELE, MARK A

ART UNIT	PAPER NUMBER
1734	19

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

mk-19

**Office Action Summary**

Application No.

09/883,144

Applicant(s)

KUTA ET AL.

Examiner

Mark A Osele

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-20 and 22-43 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15,17,18.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5-8, 10-12, 17-20, 22-24, 27-28, 33-37, and 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication 349350 (Kishi et al.) in view of Weinberg et al. (5,916,651). Kishi et al. shows a method and apparatus for applying a splicing tape by sensing a leading edge of a web (column 10, line 32 to column 11, line 14), lifting a portion of the outer-most layer of the roll, applying tension to the layer, cutting the lifted portion at a known location downstream of the lifting mechanism (column 2, lines 24-30) to coincide with a tape application line, applying a temporary holding tape to the wound portion of the roll at the application line, and adhering the leading edge of the cut outer-most layer to the holding tape (column 11, lines 35-54; column 14, lines 18-47). Kishi et al. fails to show the outer-most layer to cover only a portion of the tape while leaving a portion of the tape exposed.

Weinberg et al. teaches that an adhesive tape with a split cover liner should extend approximately one quarter to one third of the way underneath the outer-most layer of the roll, leaving the remainder exposed for splicing to the new web (column 2,

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lines 4-9, 51-60, column 3, lines 40-45, 61-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the tape of Weinberg et al. in the method and apparatus of Kishi et al. because Weinberg et al. shows this to be an effective single tape for both adhering the outer-most layer and accomplishing the splicing to a new roll.

Regarding claim 8, Weinberg et al. teaches the tape to be applied at an angle to the machine direction.

Regarding claims 14-15 and 33-37, cutters and sensors are conventional in tape applying devices to ensure that the tape is appropriately placed on the substrate.

3. Claims 9, 13, 16, 29-32 and 38-39, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kishi et al. in view of Weinberg et al. as applied to claims 1 and 18 above, and further in view of Koza et al. (5,431,767). Koza et al. teaches that pressure rollers are conventional for applying a strip of adhesive tape and take up liner removers are also known in the art to limit operator effort when applying double sided adhesive tapes to a surface (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the pressing roller and take up reel of Koza into the invention of the references as combined because they are shown to be an effective automation system.

Koza et al. further teaches the use of a perforation line along the length of the tape to aid in a controlled tape separation for the flying splice connection (column 5, lines 53-64). It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to add the perforation line of Koza et al. into the invention of the references as combined to allow fast and accurate separation of the outer-most layer from the remainder of the roll to begin the splice.

4. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kishi et al. in view of Weinberg et al. as applied to claims 1 and 18 above, and further in view of McCormick et al. McCormick et al. shows the use of a spring loaded roller, 84, spaced from the lifting mechanism to press upon the roll and apply tension to the web (column 7, lines 18-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the roller of McCormick et al. in the invention of the references as combined to aid in applying tension to the lifted segment of the web.

Regarding claim 26, although McCormick et al. shows a single spring loaded roller, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a plurality of rollers because a plurality of short rollers have less tendency to warp and bend than a single long roller.

#### ***Allowable Subject Matter***

5. Claims 3-4 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicants' arguments filed June 16, 2003 have been fully considered but they are not persuasive. Applicants first argue that Kishi does not cut the web at a known location. This argument is unsupported by the Kishi disclosure as a whole. The lifting and cutting mechanism is controlled with sensors and position controllers to lift the leading edge of the web and move it a distance from the roll prior to cutting. The sensors and position controllers would know exactly the spatial location of the end of the web relative to the circumference and would be radially aligned with an application line on the roll.

Applicants next argue Kishi fails to show reattaching the end of the web to the roll and suggests that Kishi describes two entirely different inventions: one which lifts the end of a web, cuts it, and feeds it to a splicer; and one which punches a hole in the end of a web and attaches it to a roll using a tape. This is not an accurate description of the Kishi invention which has the hole punching and tape applying as an alternative embodiment. Both embodiments of Kishi show lifting the end of a web and cutting it with one embodiment feeding the web end to a splicer and the second embodiment punching a hole in the web and using tape to adhere it back to the roll (See column 14, lines 12-17, 28-33). It is conventional to cut the end of a web and use tape to reapply it back to the roll for later splicing such as shown by McCormick et al.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

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USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicants argue that Kishi shows applying the tape over the end of the web, but fails to acknowledge the combination of references. The combination of Kishi in view of Weinberg et al. would apply a tape under the cut leading end of the web. In regard to the further argument that Kishi teaches away from such a tape because Kishi wants a temporary bond for easy lifting of the web end during splicing, the tape of Weinberg et al. is designed for just such a purpose, easy lifting of a web end temporarily held on a roll prior to splicing.

### ***Conclusion***

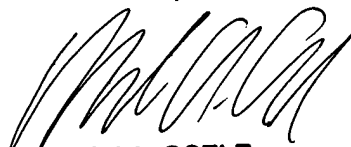
**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A Osele whose telephone number is 703-308-2063. The examiner can normally be reached on Mon-Fri 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



**MARK A. OSELE**  
**PRIMARY EXAMINER**

August 14, 2003